

### **Options for the Protection of Wetlands and Waterways**

One of the directions given to staff when the existing grading ordinance was adopted in 2007 was to return to the Board with recommendations for improving the protections provided to wetlands and waterways from adjacent grading activities. The existing ordinance provides protections by stating that all grading within a wetland or waterway is subject to a discretionary process for approval. The Board expressed concerns over the potential impacts from grading activities adjacent to a wetland or waterway that may not be subject to a discretionary or even a ministerial process.

In preparing to develop potential options for improving wetland protections in the ordinance, staff reviewed the existing County policies with regard to wetlands and the availability of reliable information identifying existing wetland locations. Staff also consulted with other stakeholders including County Planning Department, Watershed Protection District, and CA Fish and Game. Since the Public Works Agency is not the lead agency on land use or environmental policy matters, staff wanted to be sure that our recommendations were consistent with existing County policies.

After staff's initial review, it became clear that we were faced with the following major challenges.

- The General Plan wetland protection policies only apply to discretionary projects, not ministerial permits.
- There are no existing maps that reliably identify wetland locations.
- Wetland locations change over time.
- Accurate identification of a wetland requires a specially trained professional (usually a biologist).
- Since no wetland policy exists in the General Plan, other than discretionary, what buffer should be used around a wetland, if any?

Since no reliable wetland maps exist, there are three options for identifying and protecting wetlands:

1. RMA produce a County wetland overlay map in GIS for staff to use during the permit application process
2. Property owners hire a biologist to definitively determine if the project is in or near a wetland on a project-by-project basis
3. Property owner follow strict grading standards designed to protect wetlands from erosion, property owner sign a wetland acknowledgement statement, and County notify CA F&G of all projects within a red or blue line channel.

Staff recommends option 3 as the best method for protecting wetlands and waterways within the new grading ordinance given the limits of current land use policy, the lack of available wetland location data, and the desire to not overly regulate property owners. A complete description of option 3 is included in the body of this Board letter. Options 1 and 2 are discussed below.

#### Option 1 – Wetland Map Overlay

The Resource Management Agency would need to produce a wetland overlay map for the entire county. This would require a biologist to physically visit and delineate all wetland locations in the County. This map would be very expensive to produce and would need to be continually updated. Since developing such a map is outside the purview of the Public Works Agency, this option was not considered further.

#### Option 2 – Biologist Determination

To definitively determine if a project is in a wetland (or buffer if used), a biologist must visit the project site. Staff estimates that a simple biologist determination would cost the applicant approximately \$600-\$1,000. The determination could be required on all ministerial projects or just those that are in an area where wetlands most probably exist. If the Board desires to limit the number of projects requiring a biologist determination, then staff believes the best options available for defining a probable wetland area using existing GIS maps are:

1. Red line channel + FEMA floodplain maps
2. Red line channel + blue line channel + FEMA floodplain maps
3. Red line channel + blue line channel + FEMA floodplain + RMA watercourse buffer maps.

Each parcel that has any portion of that parcel within the chosen probable wetland area would require a biologist determination that the proposed project is not within a wetland (or buffer if used) before a ministerial permit would be issued. **Error! Reference source not found.** on the following page shows the number of parcels that would be included in the probable wetland area using each of the three definitions above. Red line and blue line channel maps are defined by center of channel plus 300' from centerline on both sides. Using a distance of 50' from centerline did not appreciably change the number of parcels included in the probable wetland area.

Board of Supervisors  
December 15, 2009  
Exhibit 3 – Options for the Protection of Wetlands and Waterways

**Table 5 - Probable Wetland Area Definitions**

<b>Option</b>	<b>Probable Wetland Area Defined By</b>	<b>Parcels (%)</b>
1	Red Line Channels + Floodplain Maps	12,141 (28%)
2	Red Line Channels + Blue Line Channels + Floodplain Maps	16,143 (37%)
3	RMA Watercourse Buffer Map + Red Line & Blue Line Channels + Floodplain Maps	17,165 (40%)

Total unincorporated area parcels = 43,245